



THE SOCIO-ECONOMIC PROBLEM OF DOWRY IN HINDU MARRIAGES

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ABSTRACT

Dowry is any form of valuable property that is given by the bride's family to the groom and his family members in connection of a marriage¹. It has been explicitly abolished in 1961² but the practice still continues in almost all Hindu marriages, most specifically in Arranged marriages. The practice of exchange of dowry was never prescribed in any scriptures³, nevertheless, it has become so rampant, that failure to provide dowry results in the groom walking away from the 'mandap', or results in violence and torture of the bride which often results in her death. This practice further reduces the institution of marriage to a form of an economic institution, rather than a sacrament.

What once started as a means of providing financial security to the bride, over time the practice of dowry came to be considered as an entitlement of the groom, that now the society looks down upon the grooms' families who receive no dowry or meagre amounts of it. The practice of dowry, even though abolished, is still a major culprit behind the

oppression, abuse, and violence towards women, at the hands of the patriarchy. The families of daughters, at times, willingly participate in this because they believe that without giving dowry their daughters will not have a happy married life. The patriarchal and misogynistic ideologies are so deeply embedded into the society, that a complete radical change to the institution of marriage is necessary for removing it.

In this paper I shall look at the practice of dowry through feminist perspective to discuss how it violates the right to equality and right to life of women, and how the prevalence of this practice makes marriage an economic institution.

Key words- dowry, patriarchy, economic institution, arranged marriage, rights

INTRODUCTION

Marriage under the Hindu Culture

Marriage, an age-old practice, in the Hindu society is widely regarded as sacred, as something that leads to such pure bonds that the breaking of which is generally considered a taboo. Marriage has always been for a purpose⁴, but in the Hindu culture it has been termed as a sacrament, as an institution that is necessary for carrying out the religious

¹ The Dowry Prohibition Act, Section 2 (1961).

² The Dowry Prohibition Act, 1961. Act No. 28 OF 1961.

³ Ram Narayan Tripathi, *Hindu Marriage System, Hindu Scriptures, and Dowry and Bride-Burning in India* » *Journal of South Asia Women Studies Vol. 2 No. 4* » *Asiatica Association*, http://asiatica.org/jsaws/vol2_no4/hindu-marriage-system-hindu-scriptures-and-dowry-and-bride-burning-india/ (last visited Feb 27, 2021).

⁴ RAKESH K. CHADDA, VINAY KUMAR & SIDDHARTH SARKAR, *SOCIAL PSYCHIATRY: PRINCIPLES & CLINICAL PERSPECTIVES* 15 (2018). In this book the significance of marriage has been given as for providing a support system to the spouse, children, and relatives to an individual, giving means to satisfy the physiological need of having sex, helping in the sustenance of the society and its cultural integrity, and also having legal significance in the matters of inheritance and succession.



rites.⁵ It had been declared to be a must, almost as a religious duty especially for the girls, because “there are more pitfalls in the life of an unmarried woman than those in the way of an unmarried man”⁶

In the present age, be it arranged marriage (*Dharmya* Marriage) or love marriage (*Gandharva* Marriage)⁷, the economic factors have been playing a more significant role as compared to the religious ideologies. For example, marriage nowadays are not conducted for the performance of pious purposes, or even for fulfilment of love and affection, rather it is performed by the partners or their parents for better welfare and increase in utility in a person’s life. Economic factors such as income, educational qualifications, and even the financial background of the parents play a major role in this ‘market’⁸ for marriage.

Not just in the present age, but earlier too the need for economic stability and security was essential before parents gave away their daughters in marriage. Usually, the presence of large, close-knit, joint families was an indication of financial security and assistance when need be. Also, the prevalence of child-marriages could be linked to spacing of

marriages between each child for financial reasons as one of the causes⁹.

Any wedding ceremony involves huge expenses on the decoration, venue, food, hospitality arrangements for the guests, setting up of stages and the *mandap*.¹⁰ The lavish weddings with the flair and pomp also turn the institution of marriage into an economic institution, as it requires a detailed financial planning before even looking for an auspicious date for the ‘holy’ matrimonial bond. Even during the time of marriage negotiations, the employment, wealth, and reputation are the major areas of discussion. These discussions always, more often than not, involve the question of dowry, not in direct words, but through the mention of cash and movable property to be given to the bride, and the gifts to be given to the groom and his relatives. These factors have long destroyed the sanctity and sacredness of marriage.

The Practice of Dowry

The ancient practice of ‘*Vardakshina*’¹¹ or the practice of giving gifts and cash to the groom, as prescribed in the Dharmashastra was a completely voluntary act, which has now become the social evil of dowry. Dowry,

⁵ A.S. ALTEKAR, *THE POSITION OF WOMEN IN HINDU CIVILISATION* II (1938), <http://archive.org/details/in.ernet.dli.2015.100033> (last visited Mar 16, 2021).

⁶ *Id.* at 39.

⁷ Giri Raj Gupta, *Love, Arranged Marriage, and the Indian Social Structure*, 7 J. COMP. FAM. STUD. 75–85 (1976). The eight forms of Hindu marriage are-Brahma, Daiva, Arsha, Prajapatya, Asura, Gandharva, Rakshasa, and Paisacha. Only the first four are known as Dharmya, or according to the religion.

⁸ Gary S. Becker, *A Theory of Marriage: Part I*, 81 J. POLIT. ECON. 813–846, 814 (1973).

⁹ Gupta, *supra* note 7 at 79. “When a family has several children, their marriages have to be spaced for

economic as well as social reasons, which in turn necessitates early marriages.”

¹⁰ William Harman, *THE HINDU MARRIAGE AS SOTERIOLOGICAL EVENT*, 17 INT. J. SOCIOL. FAM. 15, 173 (1987).

¹¹ Paras Diwan, *THE DOWRY PROHIBITION LAW*, Vol. 27, No. 4 INDIAN LAW INST. 564–571 (1985). “The Dharmashastra laid down that the act of kanyadan is not complete till the bridegroom was given a dakshina. The twin aspects of this great meritorious act of kanyadan were that the father after decking his daughter with costly garments and honouring her by presents of jewels gifted her to a groom whom he also gave a present in cash or kind known as vardakshina.”



though at times given by the parents of the bride out of will, is nowhere a completely willful act, instead expected by the society.

The practice originally emerged as a way of giving cash and valuable property to the daughter for her sustenance in the new family, also known as *Stridhan*¹². This property was to be her own, given out of love and affection of the parents, upon which she had the absolute control and authority, and which provided her with financial security in her matrimonial home.

These two forms of voluntary gifting, however, took an evil mode in the society that now mandates it in the form of dowry. Over time, this practice came to be considered as an entitlement of the groom, that now the society looks down upon the grooms' families who receive no dowry or meagre amounts of it. Despite the abolishment of dowry through the Dowry Prohibition Act of 1961, it has not been eradicated from the society. Cases have come to light whereby due to this rampant practice the brides have had to face domestic violence and harassment at the hands of not just the husband but his relatives. They have faced various forms of physical and mental cruelty, and in severe cases, this has led to suicides or even murder of the bride by the groom's family members. Even after tremendous advancements and modernization in the society, this practice has not vanished; in fact, the expectation of huge amount of dowry has been increasing with increased educational and professional qualifications of the bride as well as the groom.¹³

The Dowry Prohibition Act, 1961, gives the following definition of dowry under Section 2¹⁴-

“Any property or valuable security given or agreed to be given either directly or indirectly-

(a) by one party to a marriage to the other party to the marriage; or

(b) by the parents of either party to a marriage or by any other person to either party to the marriage or to any other person at or before or at any time after the marriage in connection with the marriage of the said parties, but does not include dower, or mehar in the case of persons to whom the Muslim Personal Law (Shariat) applies.”

Not only the giving and taking, but also the demand for dowry before or after the wedding is also included in this offence. Non-customary excessive presents, which are not maintained in a list, are liable to termed as dowry¹⁵.

The problem with this definition is that it excludes customary gifts given to the groom and his relatives, but dowry is itself a customary practice, and has become prevalent due to custom and societal expectations. Secondly, the term ‘excessive’ is vague and ambiguous as it cannot be the same for financially weaker sections and the more affluent members of the society. Moreover, the various expenditures included in the lavish and ‘socially pleasing’ weddings are not included in the definitions, which customarily flows from the bride’s family on whom the major financial burden of the

¹² *Id.*

¹³ Wanda Teays, *The Burning Bride: The Dowry Problem in India*, 7 J. FEM. STUD. RELIG. 25 (1991).

¹⁴ *Ibid* at 1.

¹⁵ Inserted by section 3(b) of the Dowry Prohibition (Amendment) Act of 1984.



wedding falls. Also, Section 4 of the Act¹⁶ read with Section 2 is problematic as it implies that any valuable property or cash given after the wedding, but which was not pre-determined or demanded during the marriage negotiations will not be counted as dowry. This means that for a healthy and happy married life of the daughter, and to save her from any form of cruelty and harassment, the huge amounts of financial security that is usually given to her after the wedding will not constitute as dowry. Lastly, this Act makes both the receiving and giving of dowry an offence, which blatantly ignores the social reality that the parents of brides are demanded or expected to pay dowry in various kinds and forms, as a requisite for a successful wedding of their daughter. The families of daughters, at times, willingly participate in this because they believe that without giving dowry their daughters will not have a happy married life. By making the giving of dowry an offence, there is no scope for the bride's parents to come forward to file a complaint of dowry, unless and until something severe as death of the bride occurs¹⁷. Another avenue that has been provided under the Indian Penal Code is through lodging a complaint of cruelty¹⁸, which usually takes place in demand for

dowry or for more dowry than which was actually received in the wedding. This too requires proof of substantial suffering, mental or physical, on part of the bride to file a case of cruelty. This highlights the major problem of the justice system, that it can be availed only when irreparable damage is caused, instead of taking stringent and implementable steps at the initial stage of the practice.

This social evil has monetary impact on the families of daughters who often have to take loans of large amount just to give away their daughters in marriage. The educational qualifications and empowerment of women has not had a curbing effect on this practice, rather the parents of grooms demand larger sums of dowry for the 'maintenance' of highly qualified brides¹⁹. Dowry is meant to be considered as part of the bride's *Stridhan* but more often than not, the bride never gets to access it as it remains within the control of the in-laws. Moreover, this problem is generally not discussed by the bride's parents with outsiders as they have to maintain a façade of being compliant and subservient to the family members of the groom, for the ultimate happiness in their daughter's marital life.

¹⁶ The Dowry Prohibition Act, Section 4 (1961).

¹⁷ The Indian Penal Code, 1860, Section 304-B . "(1) Where the death of a woman is caused by any burns or bodily injury or occurs otherwise than under normal circumstances within seven years of her marriage and it is shown that soon before her death she was subjected to cruelty or harassment by her husband or any relative of her husband for, or in connection with, any demand for dowry, such death shall be called "dowry death", and such husband or relative shall be deemed to have caused her death."

¹⁸ The Indian Penal Code, 1860, Section 498-A, "Husband or relative of husband of a woman subjecting her to cruelty.—Whoever, being the husband or the relative of the husband of a woman,

subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine. Explanation.— For the purpose of this section, "cruelty" means—
(a) any wilful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or
(b) harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand."

¹⁹ Teays, *supra* note 13 at 32.



This socio-economic problem of dowry is also spreading to cultures where it never existed. The recent video of dowry-related suicide of Ayesha Banu²⁰ wherein she jumped into a river due to constant harassment by her husband for dowry shows the spread of this practice to the Muslim community as well. Also, some days before this incident, another bride, Rashika Agarwal died of unnatural causes in her matrimonial home²¹ and a 24 year old bride in Odisha was stripped naked and eaten up by her in-laws.²² In both these cases their family members have alleged that these incidents were consequence of failure to fulfil the demands for dowry. News of torture and death of brides for demand of dowry spans across different castes, classes, communities, and religious groups. The National Crime Records Bureau in its latest 2019 report stated that every hour one dowry death takes place and that India reports the highest number of dowry deaths.²³ This is due to the lack of proper implementation and lack of effectiveness of enforcement agencies. The Dowry Prohibition Act has done no good as the parents of a groom continue to demand

and expect dowry as an entitlement of their son for getting married. The Delhi High Court also observed that ‘every tenth murder appeal is from husband as the convicted accused’²⁴. This menace at its initial stages does not even lead to public outcry, but only when serious consequences take place. Many women do not even file complaints, first due to fear of social backlash and her chances of getting married being diminished, and also because the onus of proof would lie completely on her.

Judicial decisions play a major role in either the perpetuation of the socio-economic problem of judiciary, or in trying to curb this menace. It has been observed that the judiciary lays down orders and judgments through a patriarchal mindset²⁵, which is the root cause of the oppression of women in the society.

JUDICIAL DECISIONS ON THE PRACTICE OF DOWRY

In an old judgment of *Vinod Kumar v. State of Punjab*²⁶, the Court while stating holding that property given to the bride at the time of

²⁰ Ahmedabad: Woman dies; husband, four others booked for abetment to suicide, THE INDIAN EXPRESS, March 3, 2021, <https://indianexpress.com/article/cities/ahmedabad/ahmedabad-woman-dies-husband-four-others-booked-for-abetment-to-suicide-7211750/> (last visited Mar 16, 2021).

²¹ Ayesha suicide: Despite one death every hour, the menace of dowry persists, THE INDIAN EXPRESS, March 5, 2021, <https://indianexpress.com/article/lifestyle/life-style/ayesha-suicide-despite-one-death-every-hour-the-menace-of-dowry-persists-7215490/> (last visited Mar 16, 2021).

²² Woman Stripped Naked, Beaten Up By In-Laws Over Dowry In Odisha: Police, , NDTV.COM , <https://www.ndtv.com/india-news/woman-stripped-naked-beaten-up-by-in-laws-over-dowry-in-odisha-police-2405643> (last visited Apr 7, 2021).

²³ Women becoming increasingly unsafe in India? NCRB’s report reveals a rape happens every 16 minutes, <https://www.timesnownews.com/india/article/women-becoming-increasingly-unsafe-in-india-ncrbs-report-reveals-a-rape-happens-every-16-minutes/661183> (last visited Mar 16, 2021).

²⁴ Apoorva Mandhani, *Every tenth murder appeal is from husband as the convicted accused: Delhi High Court* (2014), <https://www.livelaw.in/every-tenth-murder-appeal-husband-convicted-accused-delhi-high-court/> (last visited Mar 16, 2021).

²⁵ Faizan Mustafa, *Target judicial patriarchy, not the judge*, THE HINDU, March 10, 2021, <https://www.thehindu.com/opinion/lead/target-judicial-patriarchy-not-the-judge/article34030694.ece> (last visited Mar 16, 2021).

²⁶ A.I.R. 1982 Punj. & Har. 372.



the wedding is her *Stridhan* on which she has individual ownership rights, also observed this-

“[T]hat the very concept of matrimonial home connotes a jointness of possession and custody by the spouses even with regard to the moveable properties exclusively owned by each of them... barring a special written agreement to the contrary, no question of any entrustment or dominion over property would normally arise during coverture or its imminent break-up. Therefore, the very essential prerequisites and the core ingredients of the offence under S. 406... would be lacking in a charge of criminal breach of trust of property by one spouse against the order.”²⁷

This case shows the contradiction in the ruling and also highlights the nature of dependency of young couples on their family members in the Indian culture. This culture of dependency keeps the autonomy of young persons under control through the reassurance that whatever *Stridhan* a bride receives will be kept safely in her matrimonial house and would be given to her if and when the need arises.

In another case, *Pratibha Rani v. Suraj Kumar*²⁸, the Court held the following-

“[W]ith regard to the *Stridhan* property of a married woman, even if it is placed in the custody of her husband or in-laws they would be deemed to be trustees and bound to return the same if and when demanded by her.”²⁹

The individual property of a bride, on which she is supposed to have absolute control, becomes the joint property of her in-laws, to be controlled by them and to hold it over her in return for her compliance and tolerance.

Also, in *Bobbili Ramakrishna Raju Yadav vs. State of Andhra Pradesh*³⁰, the Court acquitted the in-laws accused under the offence of dowry death by stating that giving of dowry and other customary presents during the wedding cannot be assumed to be entrusted to the in-laws, and that if the parent in-laws do take control over such property, they do so as trustee of the bride's *Stridhan*. However, this further shows how this customary practice of dowry is considered acceptable even by the Judiciary despite of it being clearly prohibited.

In *Deepa Suyal v. P.C. Suyal*³¹, the wife was forced to take a job to provide for herself financially, and had to stay away from her husband, who later filed for restitution of conjugal rights. The wife's contention was that she had to take a job so that her husband and his family members would stop their demands for dowry from her. However, the Court rejected her contention and granted the restitution decree to the husband by highlighting the importance of marital obligations. This shows the blatant ignorance on part of the Court of the reality of financial dependence of women on their husbands, and further perpetuated this dependence, and consequently the subordination of women.

²⁷ *Id.* at 394.

²⁸ A.I.R. 1985 S.C. 628.

²⁹ *Id.* at 633.

³⁰ Criminal Appeal No. 45 of 2016 arising out of SLP (CRL.) No. 9344 of 2014.

³¹ AIR 1993 All 244.



Another example of judicial patriarchy is the case of *Rameshwari v. Kripashanker*³², wherein the husband threatened to leave the wife if she failed to hand over all her earnings to him and thereafter also proceeded to demand more dowry from her parents. The learned Judge expressed his disdain towards the practice of dowry but still held the following-

“[A]s the age of the girl advances the amount (the dowry) also increases... It does not show that he had lust for money. On the contrary, it shows that because of the circumstances he is trying to tame the shrew by giving her various warnings.”³³

Although this judgment was later overruled, it shows that the patriarchal mind-set is embedded deep in the higher institutions of the nation, due to which regardless of the laws prohibiting and criminalising this evil practice, the society still continues to practice it.

A clear example of patriarchal ideology reflecting from the Judiciary is an order passed by the High Court of Madhya Pradesh in 2020³⁴, in which the Judge granted anticipatory bail to the accused-husband by stating that if the husband goes to jail then any chance of compromise would not be possible and would lead to the end of marriage. He further stated that such ‘trivial’ charges of cruelty and harassment for dowry should not destroy the institution of marriage. The order reads as under-

“Looking to the facts and circumstances of the case, I find that the allegations are very trivial and can happen in any matrimonial home. Marriages would always experience some friction or the other. There are no signs of injuries on the body of the complainant as per the MLC that has been conducted. This court is also of the opinion that if the applicant goes to jail, the marriage would almost surely come to an end as thereafter there would be hardly any chances of compromise. However, as the allegations reveal that they are trivial in nature, a window of compromise or settlement is always kept open.”³⁵

This order is derogatory to the right of women to live with dignity as it brings down their agency to that of merely a wife, who should try to protect her marriage even at the cost of facing cruelty and harassment by her husband, and also generalises and condones the evil custom of dowry.

This culture of compromise was also highlighted in *Yogendra Yadav & Ors vs. The State of Jharkhand & Anr.*³⁶, wherein the Judge differentiated between offences involving a moral turpitude and matrimonial offences with respect to whether such offences are compoundable or not. The Court held-

“[W]hen the High Court is convinced that the offences are entirely personal in nature and, therefore, do not affect public peace or tranquillity and where it feels that quashing of such proceedings on account of compromise would bring

³² AIR (1975) Raj 28.

³³ *Id.* at 29, 42.

³⁴ M.Cr.C. No.22880/2020.

³⁵ *Id.*

³⁶ Criminal Appeal No.1205 of 2014.



about peace and would secure ends of justice, it should not hesitate to quash them. In such cases, the prosecution becomes a lame prosecution. Pursuing such a lame prosecution would be waste of time and energy. That will also unsettle the compromise and obstruct restoration of peace.”³⁷

The differentiation is not wrong, as heinous and grave offence do require stringent actions and approach; however, stating that matrimonial offences should be easily compounded promotes the unhealthy environment for the victim to continue to live in through compromise.

Nevertheless, there have been several judgments which have condemned this socio-economic evil of dowry and pointed out the negative consequences of the culture of compromise.

In *Sanjay Kumar Jain v. State of Delhi*³⁸, the Court held-

“This dowry system is a big slur and curse on our society, democracy and the country. It is incomprehensible how such unfortunate and condemnable instances of dowry deaths are frequently occurring in our society. All efforts must be made to combat and curb the increasing menace of dowry death.”

The Allahabad High Court, in *Ritesh Chauhan v. State of U.P.*³⁹, a case of dowry-death, observed that the culture of compromise has been increasing at an alarming rate and stated that-

“The life of the deceased is not so cheap, which could be negotiated between two individuals.”

Moreover, in the case of *Bhim Singh & Anr v. State of Uttarakhand*⁴⁰, the Court held that it is not necessary that the demand for dowry must have been made before the wedding for holding the husband and his family members liable under the Act. The Court stated-

“... [T]he social evil of dowry that is prevalent in the Indian society, this defense does not hold water. The demand for dowry can be made at any time and and not necessarily before marriage.”

In recent years there has been a growing realization and acknowledgment of the patriarchal mindset that prevails in our society, which has infected the law-making and enforcing institutions. The resentment towards patriarchy, which perpetuates gender inequality and promotes subjugation of women, is clearly visible in the society now. It is thus, essential to discuss this socio-economic practice of dowry through a feminist perspective.

FEMINIST PERSPECTIVE ON DOWRY

It cannot be denied that the institution of marriage holds extreme importance in India, especially for girls. It accords them respect, security in terms of spousal support and monetary security, and also a means to fulfil their ultimate ‘purpose’ of womanhood-giving birth and rearing of a child. Any woman who does not get married by the time she hits her ‘marriageable’ age, the society starts frowning upon her, and it becomes a problematic issue for her parents. “A woman

³⁷ *Id.* at 15.

³⁸ 2011 (11) SCC 733.

³⁹ Criminal Misc. Bail Application No. - 32538 of 2020.

⁴⁰ CRIMINAL APPEAL NO. 2146 OF 2009.



is not considered settled in her life till she gets married.”⁴¹ Hence, in the Indian society, marriage becomes a priority for girls, and they are raised in a way that they become suitable candidates in the race to find a good spouse. There are many communities among Hindus who have made the system of dowry mandatory, that now no one questions it. It is readily accepted as custom and given and taken as part of the marriage ceremony. So parents at times, even cut back on providing higher education and thus employment opportunities to their daughters, and instead save money to be spent as her dowry. Also, once parents find a ‘good’ potential spouse for their daughters, then any demands made with respect to dowry, her education, or her employment by his parents, are readily accepted. This patriarchal system that mandates the importance of marriage in the lives of girls has made other aspects trivial, such as education and employment, which are vital for the empowerment, independence and for self-sustenance, are not given priority in a girl’s life. This continues the cycle of dependence of women on men throughout their life.

Whereas, the marriageable age for men starts when they have a stable means of earning income and when they are considered reliable for being able to provide for his wife and children in the near future. Moreover,

where a person is lacking financially, it is assumed that such disparity would be taken care of through dowry received in the marriage.⁴² The burden which is put on men is their constant ability to provide. This burden is imposed by the ‘patriarchy’⁴³ and propagated through the misogynistic ideologies⁴⁴. Through this burden on men, their position in the society has also been elevated and is treated superior to their female counterparts.⁴⁵ This means that while women in our nation are being accustomed to be dependent on men in their lives, men too are being raised in a manner to be the provider and to be entitled to all the titles and privileges.

The patriarchy is not just made of men, as the women too, become the carrier of oppression and subjugation of other women⁴⁶. They are the holders of oppressive customary practices and rituals. They raise their daughters and sons in such a way that prejudices the position of women and makes men feel entitled to their superiority in the society. As is clearly evident from this socio-economic practice of dowry, that many a times the mother-in-law is also an accused and has been held guilty of cruelty and harassment of the bride by the Court⁴⁷.

Due to heavy financial loans that parents often take to pay for the expenses in the wedding and the dowry, girls start seeing

⁴¹ Poonam Pradhan Saxena, *MATRIMONIAL LAWS AND GENDER JUSTICE*, 4 J. INDIAN LAW INST. 54 (2003).

⁴² Becker, *supra* note 8 at 835.

⁴³ Patriarchy | social system | Britannica, , <https://www.britannica.com/topic/patriarchy> (last visited Mar 18, 2021). “Social system in which the father or a male elder has absolute authority over the family group; by extension, one or more men (as in a council) exert absolute authority over the community as a whole.”

⁴⁴ MISOGYNY | Definición de MISOGYNY por Oxford Dictionary en Lexico.com y también el significado de MISOGYNY, , <https://www.lexico.com/definicion/misogyny> (last visited Mar 18, 2021). “Dislike of, contempt for, or ingrained prejudice against women.”

⁴⁵ Saxena, *supra* note 41 at 343.

⁴⁶ Bell Hooks, *Feminism Is For Everybody* 177, 8.

⁴⁷ Reema Aggarwal v. Anupam & Ors. (2004) 3 SCC 199.



themselves as a financial burden on their families. With cutbacks on her education and employment, or having to give up on them when a certain marital prospect emerges, her ability to financially support herself and her parents is also diminished. If, on the other hand, her education and employment opportunities are not compromised with, she is still expected to learn household chores to be able to be a 'good wife'. These abilities of managing a household and also working outside, side-by-side, are usually not expected of 'good' husbands, which leads to enormous pressure on women to be able to do well and be efficient in all aspects of her life. To add to this burden, the monetary amount of dowry or the valuable properties that are to be given as dowry also increase, so that the lifestyle of the bride is not compromised with⁴⁸, but this dowry is seldom given to the bride to be kept under her control or to be used by her according to her whims and fancies. All these burdens along with facing harassment and cruelty at her matrimonial home drive women to commit suicide.

However, the Hindu Marriage Act, which deals with marriage among Hindus, does not depict any such disparity among men and women. The statutes in this Country appear to be balanced, but the inequality and prejudices are present within the society as a result of customary practices and patterns of family hierarchy.

Moreover, the criminalising of the practice of dowry may be able to put the perpetrators

who take part in the transaction behind bars, but it does not provide any justice or remedy to the bride. As the society has made marriage a necessity in a girl's life, the breakdown of her marriage and subsequent emotional and financial trauma she faces, as a result of being a dependent on her husband, is not accounted for. On top of that, the society ostracizes such women who have experience of a failed marriage, even if it was not through her fault. Also, if the Court is of the view that there is no offence, or the proof has not been established sufficiently and the case under Dowry Prohibition Act or the under provisions of Harassment and Cruelty for Dowry under the Indian Penal Code gets dismissed, the bride continues to stay with misery in her matrimonial home, and her victimization endures.

Lastly, the 'public-private divide'⁴⁹, which is evident in matters of matrimony, where issues happening inside homes are brushed aside because they are 'personal matters' between a couple, prevents the proper implementation of provisions of Dowry Prohibition. However, right to equality and the right to life and to live with dignity are public rights⁵⁰ and hence when being violated need to be a matter of public interest. Rights of women⁵¹ need to be recognised as public rights, which must be implemented, not just textually but in practice.

SCOPE FOR REFORM AND CONCLUSION

The socio-economic practice of dowry, though prohibited, is still being rampantly

⁴⁸ Teays, *supra* note 13 at 33.

⁴⁹ MARGARET DAVIES, ASKING THE LAW QUESTION 229 (2017).

⁵⁰ The Constitution of India, 1950, Articles 14 and 21.

⁵¹ Olympe de Gouges (1748-1793), Declaration of the Rights of Woman and the Female Citizen, 1791, , 3 in TOLERANCE 49-51 (Caroline Warman ed., 1 ed. 2016), <https://www.jstor.org/stable/j.ctt19b9jvh.24> (last visited Mar 18, 2021).



practiced in the Hindu society. This practice is discriminatory towards the brides as it puts extreme monetary pressure on their parents, prevents them from receiving quality education and employment opportunities at times, and also subjects them to cruelty and harassment in their matrimonial homes, which often leads to them ending their own life or being brutally murdered by their husbands or her in-laws. This menace, being a customary practice is blindly followed by the society, and often occurs without being complained against. This is so because the provisions of the Dowry Prohibition Act, 1961 are such that even the parents of the brides, who are forced by customary and societal practices to give dowry, could be declared as offenders if the practice comes to light.

Hence, first and foremost, it is essential that the legislation be amended to acknowledge the societal reality of pressures on the parents of a bride to give dowry in her marriage, and to not penalise them for taking part in this practice.

Secondly, though not immediately, but it is important that the social awareness of the evilness of the practice of dowry spreads across communities in order to curb this practice at its roots, before it takes an uglier turn of cruelty, harassment, suicide or murder of the bride.

Thirdly, men and also women need to be taught that the ingrained patriarchal mind-set is the sole cause of the oppression and subjugation of most women in this country.

It is true that many communities do not take part in the practice of dowry, and many women have been excelling in their lives, but that does not diminish the reality of several women who are being tortured and harassed, and prejudiced against, not just in their matrimonial homes, but also starting from their childhood. It is thus important to highlight that the role and position of men and women, especially in the present age is at par with each other, and also promote ways of bringing them at par, be it economically or socially. The idea of equality and radical change in the present system of patriarchy can only start from within families, before it reaches Courts and the Parliament.

Lastly, strict implementation of the legislations is required, which will be possible when it works alongside social awareness and education. This also requires the eradication of patriarchal mind-set that prevails in the Judiciary and the Legislature. Recently, the Supreme Court laid down guidelines for the Courts which are to be followed when giving judgments involving women, which specifies that patriarchal and stereotypical notions should be avoided.⁵² This is a positive step towards shutting down of patriarchy and similar action needs to be taken and implemented at all levels in all institutions of the nation.

Hence, society as a whole needs to strive towards a better future for women, by collectively discarding any such customs or rituals which are derogatory and discriminative towards women. Government should also play its part in protecting the

⁵² LIVELAW NEWS NETWORK, *Courts Should Avoid Patriarchal & Stereotypical Notions About Women: Supreme Court Issues Guidelines For Dealing With Sexual Crimes* (2021),

<https://www.livelaw.in/top-stories/courts-orders-should-avoid-patriarchal-stereotypical-notions-about-women-supreme-court-guidelines-171365> (last visited Mar 19, 2021).



rights of women through strict action to curb this menace. Humanity, dignity and righteousness must prevail over monetary greed that currently prevails in the society, and the entitlement that a group of one gender has been enjoying must be discarded through collective efforts.

